

### **Remarks**

Claims 1-20 are pending in the application, and each was rejected. In view of the following, reconsideration of the rejected claims is respectfully requested.

#### **Claim Rejections—35 U.S.C. § 102**

The Examiner rejected claims 9-16 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,366,848 (Gustavsson). The Examiner states that "Gustavsson discloses a vehicle including an apparatus 10 for displaying a maximum sustainable speed of said vehicle... and wherein said apparatus will display a second 'standard' maximum speed if the new measured speed differs by a predetermined amount when the vehicle velocity is zero...." The Examiner references Figures 1-3C and column 1, line 49-column 2, line 8 of Gustavsson in support of this statement.

The MPEP states that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131, 8<sup>th</sup> ed., Rev. 1 (citation omitted). The MPEP further states that "the identical invention must be shown in as complete detail as is contained in the claim." *Id.* (citation omitted). An examination of the Gustavsson reference, including the specification, claims and drawing figures, shows that claims 9-13 of the present application each contain elements which are neither expressly nor inherently described in Gustavsson. For example, claim 9 recites "[a] vehicle including an apparatus for continually determining and displaying a maximum sustainable speed of said vehicle." No such apparatus is described in Gustavsson.

Gustavsson does describe an engine control system that provides incentives to drivers, and in particular a system which rewards a driver who has met a predetermined performance goal. (Col. 1, ll. 63-65:) The control system of Gustavsson establishes an operating speed limit, and then limits the operating speed of the vehicle to the established speed limit. A maximum vehicle speed and an incentive speed limit are established, and if the operator meets a performance goal, the operating speed limit is increased to the incentive speed

limit. (Col. 2, ll. 1-8.) As shown in Figure 1, the system of Gustavsson includes a speed governor 15 that limits the maximum speed of the vehicle—see also column 3, lines 27-32. Thus, the control system of Gustavsson establishes a maximum vehicle speed, controls systems within the vehicle so that the vehicle cannot be operated above this speed, and then conveys this information to the driver. As specifically stated in Gustavsson, "the present invention integrates into an existing vehicle display and keeps the driver informed as to the maximum attainable speed of his vehicle at any time." (Col. 1, ll. 55-57.)

The control system described in Gustavsson is markedly different than the present invention as recited in claims 9-16. For example, claim 9 describes an apparatus and claim 14 describes a method, both of which include determining a "maximum sustainable speed." No such element is expressly or inherently described in Gustavsson. Gustavsson discusses displaying a maximum *attainable* speed, but this not the same as a maximum sustainable speed. The maximum attainable speed as described in Gustavsson is a speed limit, that is mechanically and/or electrically controlled by a control system, so that regardless of vehicle operating conditions, the driver cannot exceed this speed. In contrast, the maximum sustainable speed recited in claims 9 and 14 defines a steady operating speed of the vehicle, which, for example, "may be accomplished over some predetermined period of time... or which may allow the vehicle [ ] to perform some predetermined maneuver." (Specification, paragraph 0041.) Whereas a vehicle may exceed a maximum *sustainable* speed for some short period of time, a vehicle cannot exceed the maximum *attainable* speed for any amount of time.

Claims 9 and 14 are further distinguished from Gustavsson, since each recites that the maximum sustainable speed is *determined*. This is in contrast to the system described in Gustavsson, which is a control system which *establishes* a vehicle operating speed limit, and then limits operation of the vehicle so the established speed is not exceeded. In summary, claims 9 and 14 of the present application recite "a maximum sustainable speed", and this maximum sustainable speed is determined, not set by some control system. In contrast, Gustavsson does not anywhere describe a maximum sustainable speed, but rather, describes a maximum attainable speed for the vehicle—a speed which is not determined, but is established by the control system. Thus, claims 9 and 14 of the present application contain

elements which are neither expressly nor inherently described in Gustavsson. Moreover, Gustavsson does not show the identical invention in as complete detail as is contained in claims 9 and 14. Therefore, with regard to claims 9 and 14, the MPEP definition of anticipation is not met.

Claim 9 is the base claim for claims 10-13, and claim 14 is the base claim for claims 15-16. Each of these dependent claims contains all of the limitations of its respective base claim, as well as additional limitations which further distinguish it from the cited reference. For example, claim 13 recites a controller that "calculates a second maximum sustainable speed and causes said second maximum sustainable speed to be displayed only if said second maximum sustainable speed differs from said sustainable speed by a predetermined amount." As discussed above, Gustavsson does not describe, either expressly or inherently, any maximum sustainable speed; therefore, Gustavsson does not describe a second maximum sustainable speed. In addition, the control system of Gustavsson will change the vehicle operating speed limit to the incentive speed limit only when the vehicle operator has met a performance goal. (Col. 1, ll. 62-Col. 2, ll. 1-8.) Gustavsson does not expressly or inherently describe the elements of claim 13, and Gustavsson does not show the identical invention in as complete detail as contained in claim 13. Therefore, with regard to dependent claims 10-13 and 15-16, the MPEP definition of anticipation is not met.

#### Claim Rejections—35 U.S.C. § 103

The Examiner rejected claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over Gustavsson in view of U.S. Patent No. 6,540,035 (Nagano et al.). The Examiner also rejected claims 4-8 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Gustavsson as modified by Nagano et al. as applied to claims 1 and 14, respectively, and further in view of U.S. Patent No. 5,992,553 (Morrison).

The MPEP states that in order to establish *prima facie* obviousness, all of the claim limitations of an invention must be taught or suggested by the prior art. MPEP § 2143.03, 8<sup>th</sup> ed., Rev. 1. Neither Gustavsson, Nagano et al., nor Morrison, alone or in

combination with any of the other cited references, teaches or suggests all of the claim limitations of any of the claims of the present application. For example, claim 1 recites "a controller which calculates a maximum sustainable speed of a hybrid electric vehicle; and a display which is coupled to said controller and which displays said calculated maximum sustainable speed." None of the cited references teach, or even suggest, the calculation of a maximum sustainable speed of any vehicle, including a hybrid electric vehicle. As discussed above with regard to the anticipation rejections, Gustavsson does not expressly or inherently describe any type of apparatus, including a controller, for calculating a maximum sustainable speed of a vehicle. Moreover, Gustavsson does not even suggest such an apparatus. There is no mention anywhere in Gustavsson of calculating a maximum sustainable speed. The same is true for Nagano et al. Claims 2 and 3 depend from claim 1, and therefore contain all of the limitations of claim 1, as well as additional limitations which further distinguish them from the cited references. Thus, claims 1-3 each contain limitations which are neither taught nor suggested by the cited references. Therefore, with regard to claims 1-3, the MPEP requirements for *prima facie* obviousness are not met.

Claim 1 is the base claim for claims 4-8, and therefore each of these dependent claims contains all of the limitations of claim 1 as well as additional limitations which further distinguishes it from the cited references. The addition of Morrison to the Gustavsson and Nagano et al. references, still does not teach or suggest all of the claim limitations of claim 1, or all of the claim limitations of any of the claims which depend from claim 1. As discussed above, Gustavsson describes a control system which limits operation of a vehicle to some predetermined maximum speed. Nagano et al. describes a hybrid vehicle, but does not describe determination of a maximum sustainable speed as specifically recited in claim 1 of the present application. In addition, Morrison describes a power augmentation system for a bicycle that is designed to augment a rider's power input when it is required. (Col. 3, ll. 22-32.) None of these references, nor any of the other cited references, describes calculating a maximum sustainable speed of a vehicle, as is specifically recited in claim 1 of the present application. Therefore, with regard to claims 4-8, the MPEP requirements for *prima facie* obviousness are not met.

Claim 14 is the base claim for claims 17-20. Each of these dependent claims contains all of the limitations of claim 14, as well as additional limitations which further distinguish it from the cited references. Claim 14 recites a method for operating a vehicle that includes the step of "determining a maximum sustainable speed." As discussed above, Gustavsson does not expressly or inherently describe such elements. In addition, even the combination of Gustavsson with Nagano et al. and Morrison, or any of the other cited references, does not teach or suggest such limitations. Similarly, claims 17-20 each contain additional limitations which further distinguish them from the cited references. For example, claim 18 recites the step of "determining whether the calculated maximum sustainable speed varies from a previously calculated maximum sustainable speed by a predetermined amount." Since none of the cited references describe calculating even one maximum sustainable speed, it is not even suggested to calculate a second maximum sustainable speed and then determine whether this value varies from the first by some predetermined amount. Thus, claims 17-20 each contain limitations which are neither taught nor suggested by any of the cited references. Therefore, with regard to claims 17-20, the MPEP requirements for *prima facie* obviousness are not met.

Accordingly, allowance of each of the pending claims is requested.

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